

David Saunders
Yakima County Code Enforcement
128 North Second Street – 4th Floor Courthouse
Yakima, WA 98901

May 11, 2016

Dear David Saunders,

Your letter of April 26, 2016 deserves a candid response. You indicated that my Notice Of Complaint of April 11, 2016 is designated as COD2016-00068.

The text of your letter indicated that Yakima County is not obligated to keep me (Notifier) informed. Yakima County indicates that investigation and enforcement is discretionary. And you are concerned with benefiting the public and not an individual citizen such as myself.

Please let me provide you with a specific and clear response to your communication.

First, Yakima County shall investigate critical area violations and Clean Water Act violations at “stump alley” (Wide Hollow Creek); ostensibly these violations resulted from unlawful actions of employees of Yakima County.

Second, Yakima County shall provide me with weekly updates regarding the Code Enforcement investigation without my need to follow up with Public Record Requests on this matter.

Third, within 15 days, Yakima County shall submit to me a time line regarding the creation of a site restoration plan that is created by Qualified Professionals who assess the destroyed environment at the site (known as “stump alley”).

Fourth, after the creation of the Restoration Plan (by Qualified Professionals), Yakima County shall submit the application for the CAO/FP permit to abate the unlawful diversions, diking, fill, obstructions and Yakima County shall also request SEPA authorization.

Fifth, Yakima County shall create a JARPA and ensure that senior officials outside of WDFW Region 3 approve the HPA permit; the existing corrupted HPA permitting process in Region 3 (WDFW) has been referred to the EPA and US Department of Justice for investigation and dismantling.

Sixth, Yakima County shall obtain a COE 404 Fill & Dredge permit to perform the restoration work involving Wide Hollow Creek.

The tone and content of your communication makes my sharp response mandatory. Given that Yakima County is unlikely to comply with the lawful course of events outlined in the paragraphs above, Yakima County can expect to receive a Notice of Intent (NOI) to sue under the Federal Clean Water Act. Within Federal District Court, enforcement of the CWA is mandatory. Needless to say, compliance with all six points above will be far less burdensome than needlessly defending CWA violations. The expected weekly communications to me, documenting progress on a lawful site restoration, will determine whether a NOI will be issued to Yakima County.

The various Wide Hollow Creek (“stump alley”) obstructions, diking areas, fill areas, and diversions that have knowingly been placed within and near Wide Hollow Creek could be ten or more. Given that Yakima County has knowingly violated the CWA, fines could be accumulating at over \$0.5 million per day (\$50K x 10). Yakima County must consider downstream residents who experienced flooding; they may demand compensation for losses resulting from the unlawful projects within Wide Hollow Creek flood waters. Restoration (of “stump alley”) will be ordered by judicial ruling if Yakima County chooses a course of action leading to litigation. Sedimentation downstream from the site (now denuded to a rock base) indicates that critical habitat for mid-Columbia steelhead has been harmed (silted) as a result of the “stump alley” project; this is a violation of the Federal Endangered Species Act by Yakima County. The failure to inform the public about the project is a violation of the Growth Management Act. The failure to obtain and retain lawful permits is a violation of NFIP regulations by Yakima County.

Yakima County has taken an aggressive role with respect to environmental destruction involving “stump alley” and now intends to dredge a mile of the same watercourse. In addition, a mile of mature trees along Wide Hollow Creek will be destroyed. And Yakima County touts the “stump alley” as a triumph of Yakima County Surface Water development projects. In truth, the site is an environmental disaster at the hands of Yakima County. At this time, Yakima County has the task to lawfully restore the site by creating a Restoration Plan and by obtaining all required permits. Within Federal District Court, enforcement of the CWA is mandatory and then fines are also mandatory. Costs of litigation, costs of restoration, and costs related to flooded properties downstream must also be weighed by Yakima County. The content of your letter indicates that Yakima County is not prepared to take meaningful action to investigate the violations and then to lawfully respond. Please reconsider that response.

If you would like to discuss this matter, please contact Mr. Jim Adams (attorney) to set up a meeting.

Sincerely,

Matthew Seaman